Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

3 May 2004

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Working paper on the Southeast Asia nuclear-weapon-free zone submitted by the ASEAN Member States (Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam)

1. One of the yardsticks for measuring progress towards the full implementation of the NPT is the establishment of nuclear-weapon-free zones. ASEAN has always been supportive of the concept of internationally recognized nuclear-weapon-free zones established on the basis of arrangements freely arrived at among States in the regions concerned. ASEAN firmly believes that the establishment of the nuclear-weapon-free zones is an effective measure of geographical limitation of nuclear proliferation, and contributes to the twin goals of non-proliferation and nuclear disarmament. It further contributes towards strengthening the security of the States in the zone and to enhancing peace and security in a collective manner. ASEAN is therefore happy to learn of the gradual increase in number of States covered by the umbrella of nuclear-weapon-free zone treaties, which now exceeded 110 States.

2. It is worth recalling here the Principles and Objectives for Nuclear Non-Proliferation and Disarmament, adopted at the 1995 Review and Extension Conference of the Parties to the NPT, which stated inter alia that the cooperation of all the nuclear weapon States and their respect and support for the relevant protocols is important for the maximum effectiveness of the nuclear weapon-free zone treaty and its relevant protocols. In this regard, ASEAN wishes to emphasize the paramount importance of providing assurances by the nuclear weapon States against the use or threat of use of nuclear weapons to all States of the zones.

3. ASEAN wishes to recall once again that it has established a nuclear-weapon-free zone in Southeast Asia (SEANWFZ) by Bangkok Treaty, which entered into force since 27 March 1997. As a key component of Zone of Peace, Freedom and Neutrality (ZOPFAN), SEANWFZ Treaty expresses determination of ASEAN to contribute towards general and complete nuclear disarmament and the promotion of international peace and security. It also aims to protect the region from environmental pollution and the hazards posed by radioactive waste and other toxic materials.

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4. ASEAN has put in place the SEANWFZ Commission and its Executive Committee to oversee effective implementation of the provisions of the Treaty and ensure compliance with them. ASEAN welcomes the progress made in the implementation of the Treaty. However, the Protocol to the Treaty is yet to be acceded to by the nuclear weapons States. For SEANWFZ to be fully operational and effective, it is essential that the nuclear weapons States accede to the Protocol at an early date. In this regard, ASEAN is happy that China has already reached agreement with ASEAN on the SEANWFZ and its protocol. ASEAN is also pleased to note that significant progress has been made in the accession of nuclear weapon States to the relevant protocols to other nuclear-weapon-free zone treaties. ASEAN encourages their earliest accession to the protocol to Bangkok Treaty as well.

5. To this end, ASEAN has been holding direct consultations with the five nuclear weapon States on their terms of accession to the protocol, which lays down their commitments under the Treaty. Although there are still a few outstanding issues, ASEAN considers these on-going consultations as steps in the right direction towards winning the respect and support of the nuclear weapon States for the Zone by their earliest accession to the Protocol to the Treaty.

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Strengthening the nuclear non-proliferation regime

Working paper submitted by France

The third session of the NPT Preparatory Committee takes place in a context characterized by several nuclear proliferation and non-compliance crises, which have left major questions unanswered, and emphasized new threats to international peace and security.

Cases of failure and non-compliance have been exposed over the past year, as well as the existence of an international network of trafficking in nuclear technologies ; North Korea has expressed its intention to withdraw from the NPT.
Corrective measures, in cooperation with the IAEA, have been taken in some cases.

The non-proliferation regime, and in particular the NPT Review Process, will have to demonstrate in the coming months its ability to adapt itself to such international security challenges while preserving the core principles of the NPT.

The constraints arising from the non-proliferation commitments of States Parties are balanced in the Treaty by the development of, and cooperation in, peaceful uses of nuclear energy. Civilian nuclear cooperation is only possible if States comply with all their obligations stemming from the Treaty. There is a risk however, that the recent proliferation and non-compliance crises may affect the confidence we put in the non-proliferation regime.

France reiterates its commitment to the right of all Parties to the NPT to civilian nuclear energy. France considers that a basic objective of the NPT is precisely to make the development of international cooperation in this field possible. Most analyses show that world energy needs will increase sharply in the coming years; nuclear energy will be in this context an essential contribution to sustainable development.

Given this background, France would like to share the views hereunder, which are based on the following principles:

- fostering the NPT and international institutions (UN, IAEA) through effective multilateralism;
- restoring the confidence of the international community;

- adopting an inclusive approach, and avoiding the creation of dividing lines among the international community.

I- Strengthening and universalizing the rules for sensitive equipment, giving new guarantees to States in good standing

- Universalization of the Additional Protocol and Comprehensive Safeguards Agreements

France, along with the EU and the G8, has called for and worked towards the universalization of the Additional Protocol and of Comprehensive Safeguards Agreements. France ratified its own Additional Protocol on April 10th, 2003.

➢ Having such a Protocol in force should rapidly become a standard

➢ In this connection, IAEA Member States have a responsibility to ensure that the Agency has adequate technical and financial means to carry out its statutory missions. The Agency should adapt and optimize safeguards implementation to fulfil its new missions.

- Preventing the risks stemming from the dissemination of sensitive technologies

Developing peaceful uses of nuclear energy and setting-up a nuclear power-generation program does not require, in the large majority of cases, sensitive and potentially proliferating technologies. At the same time, recent crises have demonstrated the need for strengthened export controls on those technologies or materials (enrichment, reprocessing, heavy water production facilities, equipment or related technologies, HEU, separated plutonium).

➢ The export of such materials, facilities, equipment or related technologies should only be envisaged in the light of the existence of a set of conditions relevant to the global non-proliferation regime and NPT objectives:

- an alleged energy need in the country;
- a credible nuclear power generation program and related fuel cycle needs;
- an economically rational plan for developing such projects;
- an Additional Protocol brought into force and implemented before any physical transfer or transfer of know-how;
- the highest standard of non-proliferation commitments;
- the effective and efficient implementation of an export control system with adequate sanctions;
- the highest standard of nuclear security and safety;
- an analysis of the stability of the country and the region concerned.

Such criteria would only marginally increase the effectiveness of the non-proliferation regime if they are restricted to the member-States of the NSG and Zangger Committee, which already have strict export controls in force. They should be adopted by all states concerned.

The effect of technological progress (e.g. "closed cycle" reactors) on the aforementioned conditions would have to be assessed in due time.

- Reinforcing States' responsibility

In addition, it is essential that all governments concerned adopt responsible policies regarding nuclear exports.

➢ *Steps should be taken so that all potential suppliers of sensitive nuclear technology, equipment and materials adopt voluntarily robust export controls along comparable guidelines. Consideration could be given to universal control norms based on Zangger Committee Understandings.*

➢ In addition, suppliers should commit themselves to linking any transfer of sensitive items (see above) and major transfers of non-sensitive items to NNWS to the signature of an inter-governmental agreement, thus creating a legal base and framework for such cooperation. Any such transfer not covered by such an agreement should be considered illegal and legal action should be taken in accordance with national regulations.

- Increased access to non-sensitive technologies; guarantees of access

Enhancing controls on exports of sensitive technologies should be balanced with an easier access, by States that may need them, in particular the developing countries, to non-sensitive equipment and technologies and nuclear cooperation.

➢ It would be appropriate, in this context, to review the balance of existing NSG rules with a view to avoiding unduly stringent rules on the transfer of non-sensitive equipment and facilities (e.g.: LEU reactors, control and command and other goods useful for the safety and security of nuclear power plants).

➢ Guarantees of access to services related to nuclear fuel, or to nuclear fuel, at market prices on a long term basis could also be given, through a collective declaration, or individual declarations, of supplying States back to back with commitments by the companies concerned, to countries that intend to pursue a nuclear power generation program for peaceful purposes without developing a comprehensive fuel cycle. Those countries should have a Comprehensive Safeguards Agreement and its Additional Protocol brought into force, with the cooperation of the IAEA. It would be made clear that such guarantees should avoid the creation of monopoly situations.

II- Taking action to prevent new breaches of confidence

- Compliance and international cooperation

➢ In order to strengthen Article IV of the NPT, nuclear cooperation should be suspended with States for which the IAEA cannot provide sufficient assurances that their nuclear program is devoted exclusively to peaceful purposes, until the IAEA provides such assurances. Suspension could be called for by the Agency's Board of Governors when, for example, the Director General reports, in a State:

- a situation of "serious breaches";

- a situation of "non-compliance";

- an "unacceptable risk of diversion";

- the impossibility, for the Agency, to carry out its mission

In the aforementioned cases, suspension – of all or part of the nuclear cooperation – would not be automatic when appropriate corrective measures are taken by the State, in cooperation with the IAEA.

➢ Suspension could be universalized and made mandatory for all States by a decision of the UNSC.

- Withdrawal

➢ In accordance with international law, a State that withdraws from the NPT (Article X) remains responsible for violations committed while still a party to the Treaty. This principle should be reaffirmed. The UNSC is the relevant international framework for taking decisions in such a context.

➢ Without prejudice to other measures that the UNSC may decide, a State that withdraws should – in any case – no longer make use of all nuclear materials, facilities, equipment or technologies acquired in a third country before its withdrawal. Such facilities, equipment and nuclear material should be returned to the supplying State, frozen or dismantled under international verification.

➢ Inter-governmental agreements setting the framework for sensitive or major nuclear transfers (see above) should include a clause forbidding the use of the transferred nuclear materials, facilities, equipment or technologies in case of a withdrawal. The same clause should apply also for materials or NSG trigger list items produced from, or with the help of, materials, equipment, facilities or technologies originally transferred.

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Cooperative threat reduction

Working paper submitted by Italy

During the general debate and the cluster statements, many delegations — including the Presidency of the European Union — have highlighted the importance of the international co-operative process which goes under the name of "Co-operative Threat Reduction" (CTR) and its relevance for the NPT review process.

The following additional remarks and indications can be made on this issue:

1) The reductions of nuclear weapons through plurilateral, bilateral and unilateral nuclear disarmament and arms limitation treaties and processes in the past decades have brought to the attention of the international community that disarmament engagements are meaningless unless the weapons involved are either physically destroyed or appropriately disposed of. During the past decades the enormous technical and financial problems connected with the actual elimination of nuclear arsenals, have come to the surface: the CTR is a multilateral effort aimed at addressing those problems.

2) In the past decade, the United States, the Russian Federation, Japan, Canada, the European Union (and many of its member States on a national basis), as well as other Countries have worked together — under the CTR initiative — to secure and dismantle nuclear, biological and chemical weapons materials, carriers and infrastructure. The culminating moment of this initiative took place in Kananaskis, Canada in June 2002 when the leaders of the G8 Countries announced a "Global Partnership" against the spread of weapons of mass destruction. Participants at the Summit pledged to raise up to 20 billion US dollars over the following ten years to address these WMD threats.

3) At a time in which nuclear proliferation is a growing threat to international peace and security and the risk that terrorists may seek to possess either fissile material or even nuclear weapons adds a new dimension to this threat, the CTR is a significant, additional way to address the problem of nuclear proliferation and disarmament.

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4) The nuclear component of the CTR initiative is relevant to the NPT review process and strengthens the Treaty both under article 6 and under article 1. The de-activation of thousands of deployed nuclear warheads under this programme are effective measures relating to cessation of the nuclear arms race and to nuclear disarmament under the NPT as well as the Final Document of the 2000 Review Conference and the Decisions and Resolution of the 1995 Review and Extension Conference.

5) Many of the measures undertaken under the CTR, such as dismantlement of nuclear submarines, efforts to convert military stockpiles into a form no longer usable in nuclear weapons, respond to the objectives laid down in articles 1 and 2 of the Treaty.

6) The CTR deals with highly sensitive materials and equipments; most of them have traditionally been held secret by countries which had, in the past, confronted each other. The fact that these materials have now become the object of international co-operation enhances transparency and confidence. It thus strengthens trust between states and facilitates the cessation of the manufacture of nuclear weapons as foreseen in the preambular part of the Treaty.

7) The CTR has accelerated the nuclear arms reduction process, facilitated the accession to the NPT by a number of countries, thus strengthening the nuclear non-proliferation regime.

8) The CTR process, and its relevance for disarmament and non proliferation, have been presented to the Conference on Disarmament in Geneva in January, 2004: other countries may join this initiative both as donors and as recipients.

A special attention should be given, within the NPT review process, to the "Co-operative Threat Reduction": the Preparatory Committee should recommend to the Review Conference to welcome and acknowledge the CTR process as an instrument of effective nuclear disarmament and non-proliferation.